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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,248	12/27/2000	Jacek Piotr Wysoczynski	42390P9693	7471

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12400 Wilshire Boulevard 7th Floor  
Los Angeles, CA 90025

EXAMINER

BRANCOLINI, JOHN R

ART UNIT	PAPER NUMBER
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2153

DATE MAILED: 10/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/752,248	<b>Applicant(s)</b> WYSOCZYNSKI, JACEK PIOTR	
	<b>Examiner</b> John R Brancolini	<b>Art Unit</b> 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 June 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This action in response to Amendment received June 21, 2004. Claims 1-26 are pending in the application.

#### ***Specification***

Objection to specification was merely a reminder to the applicant of the option of adding a brief summary. As requested, the examiner is withdrawing the objection.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-10, 11-16, 18-23, 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gold et al. (European Patent EP 0899662 A1), hereinafter referred to as Gold, in view of Davis, Jr. et al. (US Patent 6334149), hereinafter referred to as Davis.

In regards to claim 1, Gold discloses a method comprising:

- Establishing a file transfer session between an information routing network device that has entered a debug mode and a server, a name of a last known set of backup data being stored on the network device, the last known good backup data being stored on the server (A user can establish a session with a backup

server to restore data from the server to a networked device, paragraphs [0049] – [0050], the server containing a listing of the most recent backup files from the users computer, paragraphs [0043] – [0045]).

- Requesting a transfer of the last backup data from the server to the network device (the user requests the transfer of the backup files, paragraph [0051]).

Gold, however, lacks the specific backup files being an image and configuration file pair.

Davis discloses a method of monitoring and recording critical system data in a device for initial program loading over a network. In the described invention, Davis teaches that a backup copy of a image and configuration file pair can be stored on a server to allow a client to load or boot a system with a reset initialization routine that will assure functionality (col 5 lines 15-42).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify Gold's method of data backup and restoration to include utilizing an image and configuration file as taught by Davis to allow a client to load or boot a system with a reset initialization routine that will assure functionality.

In regards to claim 2, Gold discloses detecting the network device in fatal mode and entering the debug mode on the network device upon detecting the network device in fatal mode (in a disaster recovery mode, the networked device automatically enters debug mode and the backup data is loaded, paragraphs [0081] – [0083]).

In regards to claim 3, Gold discloses receiving a command of a user and entering the debug mode on the network device upon receiving the command of the user (a user can choose to enter the debug mode to restore the backup data, paragraphs [0049] – [0053]).

In regards to claim 5, Gold discloses transfer of the last known backup data from the server to the network device (paragraph [0051]). Gold, however, lacks the specific backup files being an image and configuration file pair.

As seen in the discussion of claim 1, Davis teaches the use of an image and configuration file pair.

In regards to claim 6, Gold discloses automatically restoring the network device from debug mode to working mode after receiving the transfer of the last known backup data from the server to the network device (the transfer starts, proceeds and finishes unattended which would show that the device is restored to working mode, paragraph [0083]). Gold, however, lacks the specific backup files being an image and configuration file pair.

As seen in the discussion of claim 1, Davis teaches the use of an image and configuration file pair.

In regards to claim 7, Gold discloses establishing a file transfer session between an information routing network device that has entered a debug mode and a server includes:

- Establishing a first file transfer session with a first server, backup data being stored on the first server (A user can establish a session with a backup server to restore data from the server to a networked device, paragraphs [0049] – [0050]).
- Determining whether the backup data is the last known good backup data (the server containing a listing of the most recent backup files from the users computer, paragraphs [0043] – [0045]).
- Establishing a second file transfer session with a second server, a second backup data being stored on the second server (Fig 1 shows a model of a sample network which contains M number of servers that can be used as backup servers).
- Determining whether the second backup data is the last known good backup data (the server containing a listing of the most recent backup files from the users computer, paragraphs [0043] – [0045]).
- Wherein the method further includes requesting a transfer of one of the first or second backup data that is the last known good backup data from the server to the network device (when a user selects to download, a data transfer module detects the correct version of the data to be loaded, and writes the data to the clients device, paragraph [0051]).

Gold, however, lacks the specific backup files being an image and configuration file pair.

As seen in the discussion of claim 1, Davis teaches the use of an image and configuration file pair.

In regards to claim 8, Gold discloses a method comprising:

- Detecting that an information routing network device has entered a debug mode, a name of a last known good backup data being stored on the network device (in a disaster recovery mode, the networked device automatically enters debug mode and the backup data is loaded, paragraphs [0081] – [0083]).
- Establishing a first file transfer session between the network device and a first server, a first backup data being stored on the first server (A user can establish a session with a backup server to restore data from the server to a networked device, paragraphs [0049] – [0050]).
- Determining whether the first backup data is the last known backup data (the server containing a listing of the most recent backup files from the users computer, paragraphs [0043] – [0045]).
- Establishing a second file transfer session between the network device and a second server, a second backup data being stored on the second server (Fig 1 shows a model of a sample network which contains M number of servers that can be used as backup servers).
- Determining whether the second backup data is the last known go backup data (the server containing a listing of the most recent backup files from the users computer, paragraphs [0043] – [0045]).

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- Requesting a transfer of one of the first or second i backup data that is the last known good backup data from the server to the network device (when a user selects to download, a data transfer module detects the correct version of the data to be loaded, and writes the data to the clients device, paragraph [0051]).

Gold, however, lacks the specific backup files being an image and configuration file pair.

Davis discloses a method of monitoring and recording critical system data in a device for initial program loading over a network. In the described invention, Davis teaches that a backup copy of a image and configuration file pair can be stored on a server to allow a client to load or boot a system with a reset initialization routine that will assure functionality (col 5 lines 15-42).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify Gold's method of data backup and restoration to include utilizing an image and configuration file as taught by Davis to allow a client to load or boot a system with a reset initialization routine that will assure functionality.

In regards to claim 9, Gold discloses detecting the network device in fatal mode and entering the debug mode on the network device upon detecting the network device in fatal mode (in a disaster recovery mode, the networked device automatically enters debug mode and the backup data is loaded, paragraphs [0081] – [0083]).

In regards to claim 10, Gold discloses receiving a command of a user and entering the debug mode on the network device upon receiving the command of the



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user (a user can choose to enter the debug mode to restore the backup data, paragraphs [0049] – [0053]).

In regards to claim 12, Gold discloses transfer of the last known backup data from the server to the network device (paragraph [0051]). Gold, however, lacks the specific backup files being an image and configuration file pair.

As seen in the discussion of claim 8, Davis teaches the use of an image and configuration file pair.

In regards to claim 13, Gold discloses automatically restoring the network device from debug mode to working mode after receiving the transfer of the last known backup data from the server to the network device (the transfer is starts, proceeds and finishes unattended which would show that the device is restored to working mode, paragraph [0083]). Gold, however, lacks the specific backup files being an image and configuration file pair.

As seen in the discussion of claim 8, Davis teaches the use of an image and configuration file pair.

In regards to claim 14, Gold discloses an apparatus comprising a machine accessible medium containing instructions which, when executed by a machine, cause the machine to perform operations comprising:

- Establishing a file transfer session between an information routing network device that has entered a debug mode and a server, a name of a last known set of backup data being stored on the network device, the last known good backup data being stored on the server (A user can establish a session with a backup server to restore data from the server to a networked device, paragraphs [0049] – [0050], the server containing a listing of the most recent backup files from the users computer, paragraphs [0043] – [0045]).
- Requesting a transfer of the last backup data from the server to the network device (the user requests the transfer of the backup files, paragraph [0051]).

Gold, however, lacks the specific backup files being an image and configuration file pair.

Davis discloses a system of monitoring and recording critical system data in a device for initial program loading over a network. In the described invention, Davis teaches that a backup copy of a image and configuration file pair can be stored on a server to allow a client to load or boot a system with a reset initialization routine that will assure functionality (col 5 lines 15-42).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify Gold's system of data backup and restoration to include utilizing an image and configuration file as taught by Davis to allow a client to load or boot a system with a reset initialization routine that will assure functionality.

In regards to claim 15, Gold discloses detecting the network device in fatal mode and entering the debug mode on the network device upon detecting the network device

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in fatal mode (in a disaster recovery mode, the networked device automatically enters debug mode and the backup data is loaded, paragraphs [0081] – [0083]).

In regards to claim 16, Gold discloses receiving a command of a user and entering the debug mode on the network device upon receiving the command of the user (a user can choose to enter the debug mode to restore the backup data, paragraphs [0049] – [0053]).

In regards to claim 18, Gold discloses transfer of the last known backup data from the server to the network device (paragraph [0051]). Gold, however, lacks the specific backup files being an image and configuration file pair.

As seen in the discussion of claim 14, Davis teaches the use of an image and configuration file pair.

In regards to claim 19, Gold discloses automatically restoring the network device from debug mode to working mode after receiving the transfer of the last known backup data from the server to the network device (the transfer is starts, proceeds and finishes unattended which would show that the device is restored to working mode, paragraph [0083]). Gold, however, lacks the specific backup files being an image and configuration file pair.

As seen in the discussion of claim 14, Davis teaches the use of an image and configuration file pair.

In regards to claim 20, Gold discloses establishing a file transfer session between an information routing network device that has entered a debug mode and a server includes:

- Establishing a first file transfer session with a first server, backup data being stored on the first server (A user can establish a session with a backup server to restore data from the server to a networked device, paragraphs [0049] – [0050]).
- Determining whether the backup data is the last known good backup data (the server containing a listing of the most recent backup files from the users computer, paragraphs [0043] – [0045]).
- Establishing a second file transfer session with a second server, a second backup data being stored on the second server (Fig 1 shows a model of a sample network which contains M number of servers that can be used as backup servers).
- Determining whether the second backup data is the last known good backup data (the server containing a listing of the most recent backup files from the users computer, paragraphs [0043] – [0045]).
- Wherein the method further includes requesting a transfer of one of the first or second backup data that is the last known good backup data from the server to the network device (when a user selects to download, a data transfer module detects the correct version of the data to be loaded, and writes the data to the clients device, paragraph [0051]).

Gold, however, lacks the specific backup files being an image and configuration file pair.

As seen in the discussion of claim 14, Davis teaches the use of an image and configuration file pair.

In regards to claim 21, Gold discloses an apparatus comprising a machine accessible medium containing instructions which, when executed by a machine, cause the machine to perform operations comprising:

- Detecting that an information routing network device has entered a debug mode, a name of a last known good backup data being stored on the network device (in a disaster recovery mode, the networked device automatically enters debug mode and the backup data is loaded, paragraphs [0081] – [0083]).
- Establishing a first file transfer session between the network device and a first server, a first backup data being stored on the first server (A user can establish a session with a backup server to restore data from the server to a networked device, paragraphs [0049] – [0050]).
- Determining whether the first backup data is the last known backup data (the server containing a listing of the most recent backup files from the users computer, paragraphs [0043] – [0045]).
- Establishing a second file transfer session between the network device and a second server, a second backup data being stored on the second server (Fig 1 shows a model of a sample network which contains M number of servers that can be used as backup servers).

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- Determining whether the second backup data is the last known good backup data (the server containing a listing of the most recent backup files from the users computer, paragraphs [0043] – [0045]).
- Requesting a transfer of one of the first or second backup data that is the last known good backup data from the server to the network device (when a user selects to download, a data transfer module detects the correct version of the data to be loaded, and writes the data to the clients device, paragraph [0051]).

Gold, however, lacks the specific backup files being an image and configuration file pair.

Davis discloses a method of monitoring and recording critical system data in a device for initial program loading over a network. In the described invention, Davis teaches that a backup copy of a image and configuration file pair can be stored on a server to allow a client to load or boot a system with a reset initialization routine that will assure functionality (col 5 lines 15-42).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify Gold's method of data backup and restoration to include utilizing an image and configuration file as taught by Davis to allow a client to load or boot a system with a reset initialization routine that will assure functionality.

In regards to claim 22, Gold discloses detecting the network device in fatal mode and entering the debug mode on the network device upon detecting the network device in fatal mode (in a disaster recovery mode, the networked device automatically enters debug mode and the backup data is loaded, paragraphs [0081] – [0083]).

In regards to claim 23, Gold discloses receiving a command of a user and entering the debug mode on the network device upon receiving the command of the user (a user can choose to enter the debug mode to restore the backup data, paragraphs [0049] – [0053]).

In regards to claim 25, Gold discloses transfer of the last known backup data from the server to the network device (paragraph [0051]). Gold, however, lacks the specific backup files being an image and configuration file pair.

As seen in the discussion of claim 21, Davis teaches the use of an image and configuration file pair.

In regards to claim 26, Gold discloses automatically restoring the network device from debug mode to working mode after receiving the transfer of the last known backup data from the server to the network device (the transfer is starts, proceeds and finishes unattended which would show that the device is restored to working mode, paragraph [0083]). Gold, however, lacks the specific backup files being an image and configuration file pair.

As seen in the discussion of claim 21, Davis teaches the use of an image and configuration file pair.

Claims 4, 11, 17, 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gold in view of Davis as applied to claims 1-3, 5-10, 11-16, 18-23, 25-26 above, and further in view of Sollins (The TFTP Protocol (Revision 2), RFC 1350, 1992, page 1).

Gold in view of Davis disclose a file transfer session, but lack utilizing the Trivial File Transfer Protocol (TFTP).

Sollins presents a memo on the features of the TFTP protocol. In this memo Sollins teaches that the TFTP protocol can be used to move files between machines on different networks easily as it has been implemented on top of the Internet User Datagram protocol, which allows for quick access utilizing a small simple, protocol.

It would have been obvious to one of ordinary skill in the art to modify Gold in view of Davis to utilize the TFTP protocol as taught by Sollins to allow easy access to files stored on a remote server as well as quick overall access utilizing a small, simple protocol.

### ***Response to Arguments***

Applicant's arguments received on June 21, 2004 have been fully considered but they are not persuasive.

Applicant's arguments:

1. Gold does not disclose an information routing device.
2. Gold does not disclose the file transfer occurs after the device has entered a debug mode.



With regards to argument 1, the examiner respectfully disagrees with applicant.

Applicant contends that by claiming an information routing network device, that the claims now teach away from the cited prior art. The claim continues to further define the routing device, which merely requests a transfer of data, never directly routing data to any other destination. Further dependent claims continue to merely state the device transfers information. As is accepted in the art, and is stated by the applicant, a router routes information as it travels across a network. In this case, the receiver disclosed by Gold is seen to meet the requirements of a routing device as claimed by applicant, as it is able to request a transfer of data, and further it can direct data from its own backup agent to a backup server further along the network.

With regards to argument 2, the examiner respectfully disagrees with applicant. A debug mode is not directly defined by the applicant in the claims. As is generally accepted in the art, a debug mode is merely a method of operations where debugging takes place, or a problem is solved in the system. Gold, in discussing the disaster recovery mode, clearly shows entering a debugging mode. Though not directly calling this mode debug, the essential elements are there. The status of the system is determined, if older state information is needed, the state information is loaded, and the system is returned to normal operation. The examiner sees this series of steps as entering the debugging mode, fixing any current issues, and returning the system to normal operating status. Paragraphs 81-83 show the operation of the debug mode.

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Applicant is reminded that cited passages by the examiner are merely examples of short interpretations, and the reference needs to be treated as a whole.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John R Brancolini whose telephone number is (703) 305-7107. After October 18, the examiner can be reached at (571) 272-3948. The examiner can normally be reached on M-Th 7am-5:30pm.

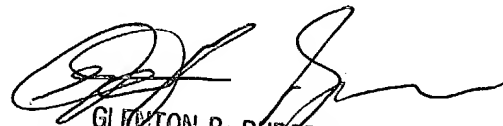
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (703) 305-4792. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JRB



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